



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 24, 1998

VIA U.S. MAIL

David M. Heller, Esq.
Tryon, Heller & Rayes, P.C.
6611 North Scottsdale Road
El Dorado Square—Gibraltar Building
Scottsdale, AZ 85250-4421

RE: MUR 4389
Debra and Paul LaPrade

Dear Mr. Heller:

On February 13, 1998, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of a violation of 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter as it pertains to Debra and Paul LaPrade.

This matter will become public within 30 days after it has been closed with respect to all other respondents involved. Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

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Enclosed you will find a copy of the fully executed conciliation agreement for your files.
If you have any questions, please contact me at (202) 219-3690.

Sincerely,

A handwritten signature in black ink, appearing to read "E. H. Bull", written in a cursive style.

Eugene H. Bull
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Debra Lee LaPrade

Paul LaPrade

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MUR 4389

CONCILIATION AGREEMENT

This matter was initiated by a complaint received from Michael J. Schroeder on June 17, 1996. The Commission found reason to believe that Paul and Debra Lee LaPrade violated 2 U.S.C. § 441a(a)(1)(A).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Paul and Debra Lee LaPrade are individual contributors.
2. The Federal Election Campaign Act of 1971, as amended ("the Act"), limits to \$1,000 per election the amount which any person may contribute to a candidate and his or her political committee; and limits to \$5,000 per calendar year the amount which any person may contribute to any political committee -- other than political committees established and maintained by a national party, which are not the authorized political committees of any candidate. 2 U.S.C. § 441a(a)(1)(A) and (C).

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3. Pursuant to the Commission's regulations at 11 C.F.R. § 110.1(h), "a person may contribute to a candidate or his or her authorized committee with respect to a particular election and also contribute to a political committee which has supported, or anticipates supporting, the same candidate in the same election, as long as: (i) the political committee is not the candidate's principal campaign committee or other authorized political committee or a single candidate committee; (ii) the contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate, for the same election; and (iii) the contributor does not retain control over the funds."

4. The term "contribution" includes (i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or (ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

2 U.S.C. § 431(8)(A)(i) and (ii). The term "expenditure" includes any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(9)(A)(i). The Commission has defined "anything of value" to include all in-kind contributions, i.e., "the provision of any goods and services without charge or at a charge which is less than the usual and normal charge for such goods and services" 11 C.F.R. §§ 100.7(a)(1)(iii) and

100.8(a)(1)(iv). Expenditures which are made by any person, including a political committee, "in coordination, consultation or concert with, or at the request or suggestion of, a candidate, his authorized committee or their agents" are considered in-kind contributions to that candidate.

2 U.S.C. § 441a(a)(7)(B)(i). Thus, "[a] communication made in coordination with a candidate presumptively confers 'something of value' received by the candidate so as to constitute an attributable [in-kind] 'contribution.'"

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5. Debra and Paul LaPrade reside in Phoenix, Arizona. Debra LaPrade is the sister of Jim Prince, a 1996 primary candidate in California's 46th Congressional District. In approximately June, 1995, Debra and Paul LaPrade each contributed the maximum \$1,000 allowed by the Act to Jim Prince's primary election campaign. Additionally, they each contributed the maximum \$1,000 allowed by the Act to his general election campaign at that time. Thus, the LaPrades could not permissibly make additional contributions to the 1996 Prince primary or general election campaigns.

6. However, before the March 26, 1996 California primary election, the LaPrades made contributions totaling \$10,000 to the Orange County Democratic Central Committee, and Edward R. Haskett, as treasurer ("the Democratic Committee"). The Democratic Committee used the money from the LaPrades to produce a mailer which expressly advocated the election of Jim Prince. Respondents contend that their contributions to the Democratic Committee were made to increase voter awareness and help get out the Democratic vote, and contend that they placed no conditions on the use of their contributions to the Democratic Committee. They also contend that the contributions were made only after the then chairman of the Democratic Committee assured Debra LaPrade that the contributions were lawful. Further, they contend that Mr. LaPrade did not at any time speak to anyone other than his wife about making a contribution to the Democratic Committee. However, the Commission has found that these contributions to the Democratic Committee were made with the understanding or the knowledge that the money would be spent to promote the Prince candidacy. Therefore, the Commission concludes that the LaPrades' contributions in March of 1996 were not made to the Democratic Committee, but instead were made to the Prince campaign. See 11 C.F.R. § 110.1(h). Because Paul and Debra LaPrade had already made the maximum allowable contribution to the Prince campaign, their additional contributions violated 2 U.S.C. § 441a(a)(1)(A).

V. The LaPrades made excessive contributions to the Prince for Congress Committee and James M. Prince, as treasurer, in violation of 2 U.S.C. § 441a(a)(1)(A).

VI.1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of four thousand two hundred dollars (\$4,200), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents understand that this agreement does not preclude the Commission from requiring their testimony in connection with this matter.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.


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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

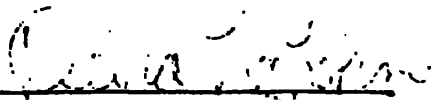
Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

2/23/98
Date

FOR THE RESPONDENTS:


(Name)
(Position)

1-3-98
Date

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